

3ORIGINAL

1 Law Offices of Beles & Beles
Robert J. Beles Bar no. 41993
2 Paul McCarthy Bar no. 139497
One Kaiser Plaza, Suite 2300
3 Oakland, California 94612-3642
Tel No. (510) 836-0100
4 Fax. No. (510) 832-3690

5 Attorneys for *Petitioner*
CHRISTOPHER VANNING JOHNSON
6

7
8 United States District Court
Northern District of California
9 Eureka Courthouse

10 CHRISTOPHER VANNING JOHNSON

11 *Petitioner,*

12 vs.

13 TRENT ALLEN, Warden, Salinas Valley State
14 Prison, California,

15 *Respondent.*

16 PEOPLE OF THE STATE OF CALIFORNIA,

17 *Real Party in Interest.*

No. 1:23-cv-01374-RMI

~~PROPOSED~~ ORDER TRANSFERRING
CASE

(Habeas L.R. 2254-3(b))

18 ~~PROPOSED~~ ORDER TRANSFERRING CASE

19 Petitioner, a state prisoner who is incarcerated at Salinas Valley State Prison, filed this
20 petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254, challenging the validity of his
21 conviction obtained in the Solano County Superior Court. [Docket No. 1.]

22 A petition for a writ of habeas corpus made by a person in custody under the judgment
23 and sentence of a state court of a State which contains two or more federal judicial districts may
24 be filed in either the district of confinement or the district of conviction. See 28 U.S.C. §
25 2241(d). The district court where the petition is filed, however, may transfer the petition to the
26 other district in the furtherance of justice. See *id.* Federal courts in California traditionally have
27 chosen to hear petitions challenging a conviction or sentence in the district of conviction. See
28

3ORIGINAL


1 *Dannenberg v. Ingle*, 831 F. Supp. 767, 767 (N.D. Cal. 1993); *Laue v. Nelson*, 279 F. Supp.
2 265, 266 (N.D. Cal. 1968). If the petition is directed to the manner in which a sentence is being
3 executed, e.g., if it involves parole or time credits claims, the district of confinement is the
4 preferable forum. See Habeas L.R. 2254-3(a); *Dunne v. Henman*, 875 F.2d 244, 249 (9th Cir.
5 1989).

6 Here, Petitioner challenges a conviction and sentence incurred in the Solano County
7 Superior Court, which is within the venue of the Eastern District of California. Therefore, the
8 United States District Court for the Eastern District of California has jurisdiction over this
9 matter.

10 The court takes judicial notice that a petition of a petitioner who was apparently
11 Johnson's co-defendant in the Solano County Superior Court, *Gutierrez v. Smith*, 4:23-cv-
12 01372-DMR, was transferred to the Eastern District of California on April 13, 2023.

13 Pursuant to 28 U.S.C. § 1406(a) and Habeas L.R. 2254-3(b), in the interest of justice, and
14 also to avoid duplication of the courts' labor and expense and possible conflicting results in the
15 two cases, this action is TRANSFERRED to the United States District Court for the Eastern
16 District of California. ¹ The Clerk shall transfer the case forthwith.

17 Dated: Eureka, California, May 15, 2023

18
19
20
21 
22 Robert M. Illman
23 United States District Magistrate Judge
24
25
26
27

28 ¹ Venue transfer is a non-dispositive matter and, thus, it falls within the scope of the jurisdiction of the undersigned Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(A).